

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

ALISIA DAILY,  
and others similarly situated

Plaintiffs,

Civil Action No.: 3:09-CV-031

v.

NCO FINANCIAL SYSTEMS, INC.  
and  
NCO CUSTOMER MANAGEMENT, INC.  
and  
NCO GROUP, INC.,

Defendants.

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**PLAINTIFF’S MEMORANDUM IN SUPPORT OF  
MOTION TO AMEND PRELIMINARY APPROVAL ORDER**

COMES NOW, the Plaintiff and Class Counsel, and in support of Plaintiff’s Consented Motion to Amend Preliminary Approval Order, they state as follows:

Plaintiff, with the concurrence of Defendants, is asking the Court to permit a supplemental address update or “scrub” to obtain alternate mailing addresses for approximately 12,000 class members to whom mailed notice was returned by the post office as undeliverable. Multiple class settlements in this district have approved an undeliverable mail percentage as high as fifteen percent (15%). *See, e.g., In re Serzone*, 231 F.R.D. 221, 236 (S.D. W. Va. 2005) (approving notice program where direct mail portion was estimated to have reached 80% of class members); *Martin v. United Auto Credit Corp.*, 3:05cv00143 (E.D. Va. August 29, 2006) (Final Order approving class notice with approximately 85% delivery); *Beverly v. Wal-Mart*, 3:07cv469 (E.D. Va. May 1, 2009); *Beverly v. ChoicePoint*, 3:07cv541 (E.D. Va. May 1, 2009). Better notice

pursuant to Fed. R. Civ. P. 23(c) is just not otherwise possible beyond such delivery percentage, coupled with Internet notice.

However, in the case at bar, with a class size of approximately 38,000 consumers, a 12,000 undeliverable percentage would mean less than 70% of the class would receive mail notice. Both parties have discussed the matter and agreed that this percentage is inadequate.

Accordingly, the Parties propose to access the various skip-trace products available to NCO (a national debt collection company) for the 12,000 consumers for whom mailed notice has been ineffective because of stale or expired addresses older than available in the U.S.P.S. National Change of Address database. This would occur at no additional expense to the class and would be accomplished almost immediately (the proposed Supplemental Order would effectively allow a fifteen day buffer for the address updates and supplemental mailing).

The parties also propose that the time within which this ‘undeliverables’ group could file an objection, or opt out or claim in to the settlement would be enlarged until May 5, 2011, permitting at least an additional three weeks for these particular class members to act in response to the notice. While this would shorten the Parties’ time to prepare an appropriate status report for the Court’s final fairness hearing (or to respond to any objections), they can and will certainly make due without moving the hearing date already published in the primary class notice.

ALISIA DAILY, on behalf of herself  
and on behalf similarly situated  
individuals,

/s/  
Leonard A. Bennett, Esq., VSB #37523

I hereby certify that on this 5<sup>th</sup> day of April, 2011, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

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